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SANOFI-AVENTIS U.S. LLC

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

BERTHA RENEE SCHMITZ,

Plaintiff,

vs.

SANOFI S.A.,
AVENTIS PHARMA S.A., and
SANOFI-AVENTIS U.S. LLC,

Defendants.

Case No. 3:16-cv-04619-MMC

ORDER GRANTING
STIPULATED REQUEST FOR STAY
PENDING MDL TRANSFER DECISION;
~~DECLARATION OF G. GREGG WEBB;~~
~~AND [PROPOSED] ORDER~~

DIRECTING PARTIES TO SUBMIT JOINT
STATUS REPORT

Pursuant to Civil L.R. 6-2, Plaintiff Bertha Renee Schmitz and Defendant Sanofi-Aventis U.S. LLC¹ (collectively, “the Parties”) hereby stipulate and request that the Court enter the accompanying Proposed Order staying this action for all purposes pending a decision by the Judicial Panel on Multidistrict Litigation (“JPML”) on the previously filed Motion for Transfer seeking to centralize this case and all other docetaxel cases filed nationally into a Multidistrict Litigation (“MDL”) proceeding (the “MDL Motion”). As described below, Defendant Sanofi-Aventis U.S. LLC did not oppose creation of an MDL. The JPML has set the MDL Motion for hearing on September 29, 2016, and the Parties anticipate that the JPML will issue its ruling shortly thereafter. Granting a brief stay of this action will ensure that the JPML has an opportunity to hear and rule upon the pending Motion for Transfer and will prevent potentially unnecessary and duplicative proceedings before this Court, thereby conserving both this Court and the Parties’ time and resources.

In support of this Stipulation, the Parties state further as follows:

The Pending MDL Motion for Transfer

1. On July 22, 2016, plaintiffs filed a Motion for Transfer before the Judicial Panel on Multidistrict Litigation, requesting creation of an MDL proceeding to centralize all docetaxel cases filed in federal court, including this case. (*See In re Taxotere (Docetaxel) Prod. Liab. Litig.*, MDL No. 2740 (MDL Dkt. # 1).) Plaintiffs’ initial motion sought to transfer thirty-three actions (*id.*), and since then, notices of related actions have been filed identifying twenty-six additional actions (*see* MDL Dkt.). In responding to the MDL Motion, Defendant Sanofi-Aventis U.S. LLC did not oppose the creation of a multidistrict litigation proceeding for this action and other included actions pending nationwide. (*See* MDL Dkt. # 42.) The JPML set the hearing on the MDL Motion for its next Hearing Session on September 29, 2016, in Washington, D.C., and a ruling on whether this case and others will be centralized is anticipated shortly thereafter. (*See* MDL Dkt. # 27.)

¹ Named Defendants Sanofi S.A. and Aventis Pharma S.A. have not been served in this case. By filing this Stipulation, Defendants expressly do not waive any claims or defenses, including without limitation defenses based on this Court’s lack of personal jurisdiction.

2. The Parties agree that good cause exists to stay this action to permit the JPML to decide the pending Motion for Transfer. A stay will ensure that the JPML has an opportunity to hear and rule upon the Motion and will prevent potentially unnecessary and duplicative proceedings before this Court. Should the JPML grant the Motion for Transfer this case likely will be transferred away from this Court and into an MDL proceeding established elsewhere. Therefore, a stay will conserve both judicial resources and those of the Parties as well as facilitate the efficient conduct of this action before this Court and as part of any future MDL proceeding. The Parties further agree that a brief stay to permit the JPML to decide the Motion for Transfer will have no adverse effect on future proceedings in this action, nor will such a stay prejudice any of the Parties.

3. The parties in three Central District cases (identified below) have similarly agreed to stay all proceedings pending the JPML's ruling on the MDL Motion:

- *Danah Anderson v. Sanofi S.A., et al.*, Case No. 2:16-CV-06046-JAK-AS;
- *Valesta Collins v. Sanofi S.A., et al.*, Case No. 2:16-CV-05418-R-RAO; and
- *Maria Concepcion v. Sanofi S.A., et al.*, Case No. 2:16-CV-06062-SVW-GJS.

Current Status of This Action

4. On July 20, 2016, Plaintiff Bertha Renee Schmitz ("Plaintiff") filed her Complaint and Demand for Jury Trial ("Complaint") against Defendants Sanofi S.A., Aventis Pharma S.A., and Sanofi-Aventis U.S. LLC (collectively "Defendants") (Dkt. #1).

5. On July 22, 2016, Plaintiff served Defendant Sanofi-Aventis U.S. LLC with her Complaint. To date, Defendants Sanofi S.A. and Aventis Pharma S.A., which are both foreign defendants located in France, have not been served.

6. Defendant Sanofi-Aventis U.S. LLC's deadline to answer, move, or otherwise respond to Plaintiff's Complaint is currently September 14, 2016.

7. In addition, the following early case deadlines currently exist: (1) the Parties' last day to meet-and-confer regarding ADR process, file ADR Certifications, and file either Stipulation to ADR Process or Notice of Need for ADR Phone Conference is currently October 20, 2016; (2) an

initial Case Management Conference in this matter is set for November 18, 2016; and (3) the attendant Joint CMC Statement is currently due November 10, 2016.

Stipulated Stay

8. For the reasons stated herein, the Parties stipulate to and request a stay of this action for all purposes, including without limitation all responsive pleading, discovery, hearings, and other deadlines, to permit a ruling on the Motion for Transfer currently pending before the Judicial Panel on Multidistrict Litigation, which ruling the Parties expect to receive during the first two weeks of October 2016. The Parties agree that this stay shall remain in full force and effect until lifted by court order upon motion of one or more Parties or as otherwise ordered by this Court or the MDL Court following transfer to an MDL.

9. No previous time modification has been requested by the Parties or ordered by the Court in this case. Granting this request will have no adverse effect on future proceedings in this matter.

Dated: September 8, 2016

GIBBS LAW GROUP

By: /s/ Karen Barth Menzies
KAREN BATH MENZIES
ERIC H. GIBBS
AMY M. ZEMAN

Attorneys for PLAINTIFF

Dated: September 8, 2016

SHOOK, HARDY & BACON L.L.P.

By: /s/ G. Gregg Webb
G. GREGG WEBB


Attorneys for Defendant
SANOFI-AVENTIS U.S. LLC

~~[PROPOSED]~~ ORDER

PURSUANT TO STIPULATION, IT IS SO ORDERED.

IT IS FURTHER ORDERED THAT the parties shall file, no later than October 28, 2016, a joint status report to apprise the Court of the status of the Motion to Transfer, if the action has not been transferred by said date.

DATED: September 9, 2016


HONORABLE MAXINE M. CHESNEY
UNITED STATES DISTRICT JUDGE